

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

96 WYTHE ACQUISITION LLC,

Debtor.

Chapter 11

Case No. 21-22108 (RDD)

**ORDER GRANTING EXAMINER'S
MOTION TO ENFORCE AND FURTHER AMEND SECOND
AMENDED ORDER DIRECTING APPOINTMENT OF AN EXAMINER**

Upon consideration of the motion (the “Motion”)¹ of the Court-appointed examiner (the “Examiner”) for entry of an order enforcing and amending this Court’s December 14, 2021 *Second Amended Order Directing the Appointment of an Examiner Pursuant to 11 U.S.C. § 1104(c)* (the “Examiner Order”) and the Court having jurisdiction to consider the matters raised in the Motion pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b); and consideration of the Motion and the relief requested being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and upon the objection to the Motion filed by the Debtor and the pleadings in support of the Motion filed by the United States Trustee and Benefit Street, as well as the pleadings filed in the Debtor’s related motion for an order clarifying and amending the Examiner Order; and upon the record of the hearing held by the Court on the Motion on January 10, 2022; and, after due deliberation and for the reasons stated by the Court at the hearing, the Court having determined to grant the Motion to the extent set forth herein, such relief being consistent with the Examiner Order and the Court’s

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

directives for the Examiner's investigation of the Investigation Topics; and good and sufficient cause appearing, it is hereby

ORDERED, that:

1. The Motion is granted as set forth herein.
2. Examiner Order is hereby modified as set forth herein.
3. The Examiner's deadline to file his Report is extended to and including January 28, 2022, which deadline may be further extended by Order of the Court upon application by the Examiner for cause shown.
4. The aggregate cap of \$250,000 on compensation and reimbursement of fees and expenses of the Examiner set forth in Paragraph 8 of the Examiner Order is increased to \$350,000, subject to further order of the Court modifying this amount for cause shown upon application by the Examiner explaining the basis for such request. Withing the foregoing cap, the compensation and reimbursement of the Examiner and his professionals shall remain subject to 11 U.S.C. §§ 330 and 331.
5. The Examiner is directed to investigate the Examination Topics, which expressly include review and analysis of documents and information (including tax returns) of the Management Company to the extent such documents and information may, in the determination of the Examiner, inform potential causes of action of the Debtor.
6. The Debtor and its principals and employees, including the Chief Restructuring Officer are directed to cooperate with the Examiner's investigation, including by producing to the Examiner (i) the bank statements requested and outstanding as set forth on the grid attached to the

Huebscher Declaration as Exhibit A², (ii) third-party confirmation of closure of any bank accounts on the grid attached to the Huebscher Declaration as Exhibit A to the extent that bank records cannot be provided because the applicable account was not operational during the requested period, (iii) all tax returns for the Debtor and the Management Company from 2017 to present, and (iv) all work product requested from the Chief Restructuring Officer prepared in connection with his work for the Debtor,³ which in the determination of the Examiner could potentially inform causes of action of the estate.

7. Other than as modified herein, the Second Amended Examiner Appointment Order shall continue in full force and effect.

8. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: White Plains, New York
January 12, 2022

/s/Robert D. Drain

Honorable Robert D. Drain
United States Bankruptcy Judge

² As noted in the Huebscher Declaration, the information on Exhibit A to the Huebscher Declaration is based on information available to the Examiner as of the date of the Huebscher Declaration, and additional bank accounts may be identified as further information becomes available. This Order requires the production of the bank records requested for the accounts listed on Exhibit A to the Huebscher Declaration, including any updates that may be made to the grids attached as Exhibit A to the Huebscher Declaration as additional information becomes available and is requested, whether or not such updated grids are filed with the Court.

³ Such compliance shall not constitute a waiver of any applicable privilege.